

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN PAUL SIMS, individually, an don behalf
of all others similarly situated.

No. C 05-02980 TEH

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
ADMINISTRATIVE RELIEF TO RE-SET
HEARING DATE AND BRIEFING
SCHEDULE**

Defendant.

On August 24, 2006, Defendant filed a Motion for Administrative Relief to re-set hearing date and briefing schedule and Plaintiff has filed an opposition thereto. Having carefully considered the parties' papers, the Court grants in part and denies in part the motion as set forth below.

First, the Court concludes that Mr. Parlo's conflict is primarily self-inflicted. According to the declaration of Rebecca Eisen, Mr. Parlo's client asked him to serve as trial counsel in the *Cyrus* case 2 ½ weeks prior to filing the instant request. *See* Eisen Decl. ¶ 7. Just a few days later (2 weeks prior to filing the instant request) Judge Wexler confirmed that the *Cyrus* case would proceed to trial on August 28, 2006. *Id.* at ¶ 5. Mr. Parlo was not yet named on the Joint Pretrial Order as trial counsel. *See* Mot. at 3 (Mr. Parlo was not added to Joint Pre-Trial Order until August 21, 2006). Given the above timing of events, Mr. Parlo's decision to proceed with the *Cyrus* case despite knowledge of the new trial date and the conflict it presented with the previously established schedule in this case, does not justify the three-week extension requested by Defendant. The Court, however, will, extend the briefing schedule by one week as a minor accommodation given that Plaintiff has not identified any specific conflict or prejudice that would result from such an extension.

1 Second, the Court has also concluded, independently of the instant motion, that the
2 current schedule, which only provides for five working days between the reply briefs and oral
3 argument, is inadequate to permit the Court sufficient time to prepare for argument on the
4 parties' three motions. Accordingly, the Court will continue the hearing date as well.


5 Accordingly, and good cause appearing, it is HEREBY ORDERED that the July 6, 2006
6 briefing schedule is modified as set forth below:

- 7 1. Opposition to Motions for Summary Judgment and Class Certification shall be filed
8 no later than September 8, 2006.
- 9 2. Reply briefs shall be filed no later than September 22, 2006.
- 10 3. Hearing on said motions shall be continued until October 16, 2006 at 10:00 a.m.

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12 **IT IS SO ORDERED.**

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14 Dated: August 28, 2006

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THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE